

**RESOLUTION NO. 2017-002(A) OF THE
BOROUGH OF MANTOLOKING JOINT PLANNING-ZONING
BOARD**

WHEREAS, the Mantoloking Yacht Club (Applicant) (MYC) is the owner of property known as Block 30, Lots 6, 6.01, 1 and 1.01 in the Borough of Mantoloking which property is located on the north side of Downer Avenue, west side of Bay Avenue, south of Old Bridge Street and has the Barnegat Bay to its immediate west (hereinafter "Property"); and

WHEREAS, the Planning Board (Board) finds that the Applicant has a proprietary interest in the Property as above described; and

WHEREAS, MYC has applied to the Board for an interpretation as to whether its proposal to add/construct one (1) free standing pole light adjacent to the existing driveway constitutes an expansion of a non-conforming use requiring relief pursuant to N.J.S.A. 40:55D-70(d)(2); and

WHEREAS, the Property is located in the R3A Zone of the Borough of Mantoloking; and

WHEREAS, the Property is presently utilized as a family oriented yacht club with provisions for recreation and the launching and storing of boats, existing wood docks, mooring piers, four (4) tennis courts, a principal one-story yacht club building on the southwest corner of the Property, an attendant and accessory one-story building immediately to its north and an additional one-story building located in the north central part of the Property with storage lockers, storage lockers adjacent to Lot 2, 2 jib cranes, on concrete pads; two hoists, and a concrete surround all on the Barnegat Bay side (waterfront development) of the Property, a

storage shed, a tennis backboard, interior fences, a property line chain link fence on Downer and Bay Avenues and along the tennis courts, extensive decking in the area of the principal and accessory building on the southwest corner, exterior fence on the Old Bridge Street northerly property line, interior parking areas, landscaping and interior fencing and memorial bricks in the area of the flag pole all as depicted on the plot plan dated 1/5/17 (hereafter Lindstrom 2017 plan); and

WHEREAS, Applicant's use of the site as a yacht club is a non-conforming use in the zone;

WHEREAS, by formal Resolution, the Board invoked the Doctrine of Necessity on April 6, 2017 in accord with New Jersey law to establish a quorum to allow the application to be heard; and

WHEREAS, such proof of service as may be required by New Jersey Statutory and Municipal Ordinance requirements upon appropriate property owners and Governmental bodies has been furnished; and

WHEREAS, public hearings were held on the said application on April 6, 2017 and May 4, 2017 in the Municipal Building (firehouse – temporarily) of said Municipality and testimony and exhibits were presented on behalf of the Applicant, and objectors and all interested parties having been heard; and

WHEREAS, Applicant was represented at the hearing by William Wolf, Esquire of Bathgate, Wegener and Wolf, P.C. and objectors as identified on the record at the hearing were represented by Michele Donato, Esquire; and

WHEREAS, the said Board having considered said Application, testimony, exhibits submitted, and from its inspection of the site, it makes the following determinations:

1. The Applicant is seeking an interpretation as to whether its proposal to add/construct one (1) free-standing pole light adjacent to the existing driveway constitutes an expansion of a non-conforming use requiring relief pursuant to N.J.S.A. 40:55D-70(d)(2).
2. The Applicant and objectors submitted the following:
 - An application dated March 9, 2017.
 - Tax Certification dated February 28, 2017 indicating that all taxes are current.
 - Certified List of Property Owners located within 200 feet of the property dated March 3, 2017.
 - Survey prepared by Lindstrom, Diessner & Carr, P.C.; dated January 5, 2017, containing no revisions.
 - Plot Plan (two [2] sheets), prepared by Lindstrom, Diessner & Carr, P.C.; dated January 5, 2017, containing no revisions.
 - Exhibit B-1 – Public Notice.
 - Exhibit O-1 – Email correspondence (Chairman Duggan/Beck/Montenegro).
 - Exhibit O-2 – Email correspondence (Objector DeCamp).
 - Exhibit O-3 – Photoboard.
 - Exhibit O-4 – Photoboard.
 - Exhibit O-5 – Document entitled “List of Plan Changes from 2004 to 2017”
3. Carl Beck, testified on behalf of the Application as follows, to wit:
 - A. He resides at 988 Barnegat Lane in the Borough of Mantoloking and is the current Commodore of the Applicant, Mantoloking Yacht Club.

- B. The Applicant's proposal is very simple inasmuch as it seeks an interpretation and ultimately an approval to install one (1) overhead pole light adjacent to the existing driveway as depicted on the plan submitted for improved safety at the site.
- C. There are no other proposed modifications or improvements presented as part of this application.
- D. He noted that there are three (3) street lights on Bay Avenue between Herbert Street and Old Bridge Street, but none along the subject property frontage that provide adequate lighting on the existing driveway on site.
- E. He testified that after becoming Commodore, he was approached by several members regarding the lack of lighting in the driveway area. He noted that there are currently no lights on the driveway. Current lighting is depicted on the Lindstrom 2017 plan. He observed that the driveway area is dark at night time and creates a dangerous condition.
- F. He testified that the driveway length is approximately 150-160 feet.
- G. By way of history, he testified that in meeting with the neighbors, a lighting consultant was recommended by a neighbor and ultimately retained by the Applicant (Ryan Clark) to develop the specifics of the lighting to be utilized; including location on the site so as to provide for necessary safety while not creating any detriment to the surrounding properties.
- H. As Commodore, his sole goal of this Application is to improve overall safety at the site. He recounted in great detail the efforts he made in conjunction with the Applicant's Safety Committee/Executive Committee and Applicant

counsel to meet with surrounding property owners and their counsel to attempt to reach a consensus regarding the proposed light.

I. He submitted that the proposed one (1) freestanding pole light improves safety at the site while providing for no additional changes to the site. He opined that the area is dangerously dark on evenings when there is not adequate moonlight and would be a significant safety improvement to the site. He testified that the proposal for the one (1) light in the location as set forth on the Lindstrom 2017 plan was a de minimus change to the site plan and should not be deemed an “expansion” of the non-conforming use on site.

4. Jennifer MacKenzie, testified in support of the Application as follows, to wit:

A. She resides at 301 Old Bridge Street and utilizes the site with her family.

B. She testified that the driveway area is much too dark in the evening and creates a dangerous condition.

C. She noted that there is no street light in that immediate area.

D. She testified she has witnessed several near accidents on the driveway area in the evening.

E. She was in support of the proposed pole light as submitted.

5. John Conti, testified on behalf of the Application as follows, to wit:

A. He testified in general support of the proposed light as submitted as same is an improvement for safety and is minor in nature and should not be considered an expansion of a non-conforming use.

6. Melissa Evans testified on behalf of the Application as follows, to wit:

- A. She is a member of the Board of the Applicant and resides in Bay Head. Her observation was that the driveway was dark in the evening and the proposed lighting is necessary.
7. William deCamp testified in opposition to the Application as follows, to wit:
 - A. He resides across the street from the subject property and in his opinion is most affected by the proposed Application inasmuch as his porch faces the driveway in question. He submitted as Exhibit O-2 an email correspondence regarding the matter and noted his objection to the approach taken by the Applicant in dealing with the neighbors.
 - B. He indicated that the other safety improvements made by Applicant previously mitigated the need for the light.
 8. Jan O'Malley, testified in objection to the Application as follows, to wit:
 - A. She resides at 1231 Bay Avenue next door to Mr. deCamp and is directly impacted by the subject property and Application.
 - B. She testified she has been a Member of the Yacht Club since 1946 and held several positions up to, and including, Vice Commodore.
 - C. She testified that she compared the 2004 and 2017 site plans and noted that there were numerous lighting modifications as well as other structure and site improvement modifications between the two plans. She submitted as Exhibits O-3 and O-4 photoboards which show the subject property and detail the items identified on the 2017 site plan that were not detailed on the 2004 site plan (approved by Resolution 04-04).

- D. She asked the Board to consider these changes in conjunction with the proposal for the free standing light inasmuch as it was her opinion that the cumulative effect of the changes on site rise to the level of an “expansion” of the non-conforming use, requiring N.J.S.A. 40:55D-70(d)(2) relief.
- E. She testified that many of the lights on site are left on for the entire night year round and do not provide for proper shielding which cumulatively has a negative effect on the enjoyment of her property, and that of other neighboring properties.
- F. She testified to several restrictions that she wished to see imposed upon the Applicant relating to light shielding as well as time of use. She also requested a condition that if the existing cedar tree adjacent to the driveway were to die, that Applicant replace it in kind.
- G. She submitted as Exhibit O-5 a detailed list of changes that she identified as between the 2004 site plan approved by Resolution 04-04 and the Lindstrom 2017 plan submitted with the current Application. She also noted there were 11 new speakers not depicted on the Lindstrom 2017 plan.
- H. She testified that Applicant has a large halogen light on the south side of the sailing center that lights the entire parking lot and western portion of the driveway. She noted that Applicant has not availed themselves of use of that light since Fall 2016.
9. Richard Ramirez, P.E., P.P., testified on behalf of the objectors in opposition to the Application as follows, to wit:

- A. He is a licensed professional engineer and professional planner in the State of New Jersey and has been retained by the objectors to the Application to testify in opposition.
- B. He testified that the Board should consider all factors in play related to this site in determining whether the proposed single overhead light constitutes an expansion of the non-conforming use.
- C. In that context, he opined that all site lighting and the cumulative effect thereof was appropriate for the Board to consider in making its determination as to whether the proposed single driveway light constitutes an expansion of the non-conforming use.
- D. He testified that it was his opinion that because the Mantoloking Yacht Club constitutes a non-conforming use in the zone, that any modification to the site requires Board approval under N.J.S.A. 40:55D-70(d)(2).
- E. He acknowledged that minor or de minimus changes to a site plan would not require relief under N.J.S.A. 40:55D-70(d)(2); however, it was his opinion that any change to lighting on a site could never be de minimus.

10. Tom McIntyre testified on behalf of the Application as follows, to wit:

- A. He has been a member of the Mantoloking Yacht Club since 1997 and has been an Officer there for more than ten (10) years. He distinctly recalls the 2004 Application inasmuch as he was responsible in his role as then Treasurer of the Club to review and pay all bills associated with the Application.

- B. He testified that the 2004 site plan (which did not have anything to do with site lighting) did not detail a majority of the lighting that existed in 2004 on the plan.
- C. His observation and recollection is that the overwhelming majority of the current site lighting existed in 2004 at the time of the approval via Resolution 04-04, although not necessarily detailed on the 2004 plan.
- D. He was in favor of the Application and did not believe that the addition of the one (1) proposed pole light adjacent to the driveway as presented constituted an “expansion” of the non-conforming use on site.

11. The Board makes the following findings, to wit:

- A. The use of the subject property as the Mantoloking Yacht Club constitutes a non-conforming use in the zone.
- B. The Municipal Land Use Law requires relief pursuant to N.J.S.A. 40:55D-70(d)(2) if an Applicant proposes to enlarge or expand an existing non-conforming use.
- C. New Jersey law, however, contemplates that where modification is negligible or insubstantial, it does not fairly warrant an application for relief pursuant to N.J.S.A. 40:55D-70(d)(2).
- D. The Applicant’s proposal to add a single pole light in the location and of the type submitted, adjacent to the existing driveway, is minor in nature as it relates to the overall site design and therefore, does not require relief pursuant to N.J.S.A. 40:55D-70(d)(2).

NOW, THEREFORE, BE IT RESOLVED, by this said Board that on this 4th day of May, 2017 based on the findings hereinabove stated it does hereby determine that Applicant's proposal for the addition/construction of a single pole light adjacent to the existing driveway as presented on the Lindstrom 2017 plan constitutes a de minimis change to Applicant's property and, therefore, does not require relief pursuant to N.J.S.A. 40:55D-70(d)(2) and shall proceed before the Planning Board as an amended preliminary and final site plan application.

Moved by: Elizabeth Nelson

Seconded by: Courtney Bixby

ROLL CALL VOTE

Those in Favor: Robert McIntyre, Courtney Bixby, Steve Gillingham, Susan Laymon, Michael Duggan, Jane White,
Betsy Nelson, Christine Beck, Elizabeth Nelson

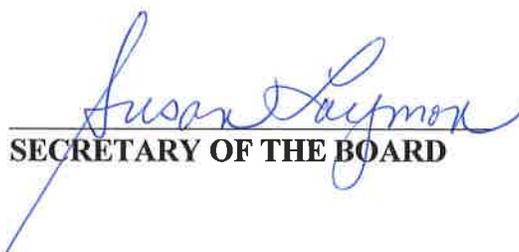
Those Opposed: N/A

Those Absent: Denise Boughton, Joe Daly

Those Not Voting: N/A

The foregoing is a true copy of a Resolution adopted by said Board at its meeting on August 3,
2017, as copied from the Minutes of said Meeting.

DATED: August 3, 2017


SECRETARY OF THE BOARD

**RESOLUTION NO. 2017-002 (B) OF THE
BOROUGH OF MANTOLOKING JOINT PLANNING-ZONING
BOARD**

WHEREAS, the Mantoloking Yacht Club (Applicant) (MYC) is the owner of property known as Block 30, Lots 6, 6.01, 1 and 1.01 in the Borough of Mantoloking which property is located on the north side of Downer Avenue, west side of Bay Avenue, south of Old Bridge Street and has the Barnegat Bay to its immediate west ("Property"); and

WHEREAS, the Planning Board ("Board") finds that the Applicant has a proprietary interest in the Property as above described; and

WHEREAS, MYC has applied to the Board for an interpretation and amended preliminary and final site plan approval (plot plan by Lindstrom, Diessner & Carr, P.C., dated 1/5/17 ("Lindstrom 2017 Plan")); and

WHEREAS, the Property is located in the R3A Zone of the Borough of Mantoloking; and

WHEREAS, the Property is presently utilized as a family oriented yacht club with provisions for recreation and the launching and storing of boats, existing wood docks, mooring piers, four (4) tennis courts, a principal one-story yacht club building on the southwest corner of the Property, an attendant and accessory one-story building immediately to its north and an additional one-story building located in the north central part of the Property with storage lockers, storage lockers adjacent to Lot 2, 2 jib cranes, on concrete pads; two hoists, and a concrete surround all on the Barnegat Bay side

(waterfront development) of the Property, a storage shed, a tennis backboard, interior fences, a property line chain link fence on Downer and Bay Avenues and along the tennis courts, extensive decking in the area of the principal and accessory building on the southwest corner, exterior fence on the Old Bridge Street northerly property line, interior parking areas, landscaping and interior fencing and memorial bricks in the area of the flag pole all as depicted on the plot plan dated 1/5/17 and referred to as the "Lindstrom 2017 Plan."

WHEREAS, Applicant's use of the site as a yacht club is a non-conforming use in the zone;

WHEREAS, Applicant seeks to add/construct one (1) free standing pole light adjacent to the existing driveway; and

WHEREAS, by formal Resolution on April 6, 2017, the Board invoked the Doctrine of Necessity to establish a quorum to allow the application to be heard; and

WHEREAS, by formal Resolution on May 4, 2017, the Board determined that the Applicant's site plan modification does not rise to the level of an "expansion" of a nonconforming use requiring variance relief pursuant to N.J.S.A. 40:55D-70(d)(2); and

WHEREAS, such proof of service as may be required by New Jersey statutory and municipal ordinance requirements upon appropriate property owners and governmental bodies has been furnished; and

WHEREAS, public hearings were held on the said application on April 6, 2017, May 4, 2017 and June 1, 2017 in the Municipal Building (firehouse — temporarily) of said Municipality and testimony and exhibits were presented on behalf of the Applicant, Objectors, and all interested parties having been heard; and

WHEREAS, Applicant was represented at the hearing by William Wolf, Esquire of Bathgate, Wegener and Wolf, P.C. and objectors as identified on the record at the hearing were represented by Michele Donato, Esquire; and

WHEREAS, the said Board having considered said Application, testimony, exhibits submitted, and from its knowledge of the site, it makes the following determinations:

1. The Applicant is seeking an interpretation as to whether its proposal to add one (1) free-standing light pole adjacent to the existing driveway constitutes an expansion of the nonconforming use requiring relief pursuant to N.J.S.A. 40:55d-70(D)(2).
2. The Applicant is also seeking an amended preliminary and final site plan approval to add/construct one (1) free-standing pole light adjacent to the existing driveway as depicted on the Lindstrom 2017 Plan.
3. The Applicant amends its Amended Site Plan Application to include a request that it include approval for all structures, improvements and fixtures depicted in the Lindstrom 2017 Plan, eleven audio speakers and the existing additional light near the shed/basketball court.
4. The Applicant and Objectors submitted the following:
 - An application dated March 9, 2017
 - Tax Certification dated February 28, 2017 indicating that all taxes are current.
 - Certified List of Property Owners located within 200 feet of the property dated March 3, 2017.

- Survey prepared by Lindstrom, Diessner & Carr, P.C.; dated January 5, 2017, containing no revisions.
- Plot Plan (two [2] sheets), prepared by Lindstrom, Diessner & Carr, P.C.; dated January 5, 2017, containing no revisions.
- Exhibit A - 1 — Lindstrom 2017 Plan (Sheet 2 of 2) Board Mounted.
- Exhibit A-2 — 2004 Site Plan, date 5/13/04 (Last Revision Date 6/17/04).
- Exhibit A-3 — Photometric Plan, dated 3/2/17.
- Exhibit A-4— Specification Sheet for Proposed Light Fixture.
- Exhibit A-5 — Sailing Center Plan (1994-1995).
- Exhibit A-6 — Photograph — Sailing Center Lighting (1995).
- Exhibit A-7— Photograph — Sailing Center Lighting (2000).
- Exhibit A-8 — Photograph — Sailing Center Lighting (2004).
- Exhibit A-9 Photograph — Sailing Center Lighting (2007)
- Exhibit A-10 — Photograph — Sailing Center Lighting (2007).
- Exhibit B-1 — Public Notice.
- Exhibit 0-1 — Email correspondence (Chairman Duggan/Commodore Beck/Planning Board Attorney Montenegro).

- Exhibit 0-2 -Email correspondence (Objector deCamp).
- Exhibit 0-3 — Photoboard.
- Exhibit 0-4 — Photoboard.
- Exhibit 0-5 — Document entitled "List of Plan Changes from 2004 to 2017"
- Exhibit 0-6— Photograph(s) of Lighting Demonstration
- Exhibit 0-7 —Photograph(s) of Lighting Demonstration
- Exhibit J-1 — Settlement Agreement

5. Chuck Lindstrom, P.E., P.P., testified on behalf of the application as followings, to wit:

- A. He is the professional engineer and planner retained by the Applicant and has prepared the site plan dated 1/15/2017 for approval by the Board. He entered as Exhibit A-1 a board-mounted copy of sheet 2 of 2 of the site plan which depicts the existing conditions on site as surveyed by his engineering firm.
- B. He pointed out the proposed twelve foot high LED pole light with shielding to be located adjacent to the south side of the existing driveway.
- C. He stated as a condition that Applicant shall exercise its bests efforts to preserve the existing cedar tree in that area and the tree shall not be removed as part of the installation of the proposed pole light.

D. He pointed out the light contours on the plan and noted that none of the light exceeds the Borough ordinance requirements.

E. He further testified that the lighting is less than .25 foot candles at the property line in the area. As such, he opined that the proposed light to be added to the driveway shall create no negative impact to the surrounding property owners.

F. He entered as Exhibit A-2 a copy of the 2004 site plan prepared by his office, dated 5/13/04 (last revision date 6/17/04) which was approved by the Board via Resolution 04-04. He testified that due to the nature of the improvements proposed with the 2004 application, his office did not identify all lights existing onsite in 2004 when that plan was prepared and submitted.

G. In the discussions with counsel for the Applicant and counsel for the Objectors, it was noted and agreed between the Parties (as set forth in the Settlement Agreement admitted into evidence as Exhibit J-1) that as a condition of Resolution compliance, Mr. Lindstrom shall add as a note to the Lindstrom 2017 Plan the eleven (11) speakers existing onsite as well as a light that exists near the shed/basketball court area that are not currently depicted on the plan. In addition, a note will be added to the plan stating that the use of all speakers shall conform to local and state noise codes and other legal requirements. Further, Applicant and the Objectors agreed that compliance with the Settlement Agreement is a specific condition of this approval by the Board.

H. He testified that it is his opinion that the plan with existing conditions and the single pole light proposed provides improved lighting and safety at the site while creating no detriment to the surrounding property owners.

6. Ryan Clarke, testified on behalf of the Applicant as follows, to wit:

A. He is a principal in Liberty Lighting Group and develops outdoor lighting plans for both residential and commercial properties. He was retained by the Applicant to develop the proposed lighting plan to provide for improved/adequate safety lighting while minimizing impact to the surrounding properties.

B. He submitted as Exhibit A-3, a photometric plan dated 3/2/17 which confirms that the proposed lighting is less than 0.5 foot candles at the property line and therefore, not only meets the Borough ordinance, but confirms said light shall provide no negative impact to the surrounding properties.

C. It was his opinion that the proposed lighting plan definitely improves safety along the driveway area.

D. He submitted as Exhibit A-4 a specification sheet for the fixture proposed for the site.

E. He acknowledged Exhibits 0-6 and 0-7 were photographs of the demonstration that he undertook with both the Applicant and neighbors.

7. Tom McIntyre, testified on behalf of the Application as follows, to wit:

- A. He entered as Exhibits A-5 through A-10, photographs of lighting on the site and detailed the timing of the photos and the existence of the lights at said time. He pointed out that these photos supported and confirmed his testimony that the majority of the lighting onsite existed prior to the 2004 site plan and Resolution 04-04 despite not being shown on said plan.
 - B. He acknowledged that some lights had been added between 2004 and 2017 and specifically recalled adding a halogen light at the rear patio after a member had fallen in that area..
- 8. Counsel for the Applicant and the counsel for Objectors jointly presented Exhibit J-1, which is a Settlement Agreement between the parties, that details the agreement between the Applicant and the Objectors to the Lindstrom 2017 Plan and the subject application with specific and detailed terms and conditions and requested that said Exhibit be incorporated into any Resolution of Approval and compliance therewith be a condition of Approval of the amended site plan.
- 9. The Board makes the following findings, to wit:
 - A. The proposed amended preliminary and final site plan Application as amended verbally at the June 1, 2017 public hearing to include eleven audio speakers and an existing additional light near the shed/basketball court and all structures, improvements and features depicted in the Lindstrom 2017 Plan with conditions as agreed upon between the parties (Exhibit J-1) promotes the general welfare by improving overall site lighting and safety at the site while doing so in a manner that shall create no substantial detriment to the public good nor any

impairment to the zone plan or zoning ordinance, provided that the Borough engineer confirms that the Lindstrom 2017 Plan as amended pursuant to this Resolution complies with Borough Ordinances and other applicable requirements.

NOW, THEREFORE, be it resolved, by the said Board on this 1st day of June, 2017, based on the findings herein above stated, it does hereby grant the Application as amended and approved above in paragraph 9A subject to the following conditions:

1. Within ten (10) business days of adoption of this Resolution, Applicant shall submit its amendment to the Amended Site Plan to the Borough in compliance with the terms and conditions of this Resolution.
2. Applicant shall obtain any other required approvals with respect to the submission from any other Federal, County, State or Municipal Agency having jurisdiction over same
3. Applicant shall provide at Applicant's sole cost and expense all improvements (one pole light) reflected on the submitted documents together with the cost of compliance, if any, to be incurred by the Applicant in conjunction with bringing existing lighting into compliance with the applicable regulations.
4. The Applicant shall comply with the terms and conditions of Article 25 of Exhibit J-1 – Settlement Agreement as follows:
 - a) Within ten (10) business days of the Applicant's submittal of its amendment to the Amended Site Plan to the Borough, the Borough Engineer shall assess compliance with the terms and conditions of this Resolution, and
 - b) Within ten (10) business days after review by the Borough Engineer, the Applicant shall revise the site plans as required, and

c) Within thirty (30) days after approval of the revised site plans, Applicant shall implement the improvements and conditions set forth in the complying plans, and

d) Within ten (10) business days thereafter, Applicant shall obtain final inspection and approval by the Borough Engineer of the site improvements.

~~e)~~ With respect to this article, MYC shall not be responsible for any delay attributable to the Borough Engineer or delay caused by Force Majeure.

5. The Applicant shall comply with all of the representations and agreements made by the Applicant or Applicant's representative(s) during the consideration of this application.

6. Except for the provisions in Paragraph 4 regarding Article 25 of Exhibit J-1 – Settlement Agreement, ~~t~~The Applicant shall comply with all conditions specified in this Resolution, including compliance with the Settlement Agreement within 60 days. Compliance shall be enforceable by the Zoning Officer, the parties to the Settlement Agreement or the Borough.

7. The Applicant shall provide a statement from the Mantoloking Borough Tax Collector that all taxes are paid in full as of the date of this Resolution and as of the date of the fulfillment of any condition(s) of this Resolution.

8. Applicant shall provide a statement from the Borough engineer indicating that the site is compliant with all Ordinance standards concerning lighting and shall provide a copy of the statement to the Board and to Objectors. ~~The Borough engineer may, for good cause, grant a thirty (30) day extension for compliance.~~

9. An essential and non-severable condition of approval is compliance with the Borough's Growth Share Ordinance as applicable.
10. Applicant shall not remove and shall exercise its best efforts to preserve the existing cedar tree as part of the installation/construction of the single pole light as proposed/presented on the Lindstrom 2017 Plan.
11. Compliance with all terms and conditions set forth in Exhibit J-1 (a copy of which shall be attached to this Resolution) is a condition of approval of the Lindstrom 2017 Plan and the subject application. In the event of any conflict or ambiguity between the terms of Exhibit J-1 — Settlement Agreement and this Resolution, the parties to the Settlement Agreement but not the Board, shall be governed by the terms of Exhibit J-1 – Settlement Agreement.

Moved by: Elizabeth Nelson

Seconded by: Courtney Bixby

ROLL CALL VOTE

Those in Favor: Robert McIntyre, Courtney Bixby, Steve Gillingham, Susan Laymon, Michael Duggan, Jane White, Betsy Nelson, Christine Beck, Elizabeth Nelson

Those Opposed: N/A

Those Absent: Denise Boughton, Joe Daly

Those Not Voting:

The foregoing is a true copy of a Resolution adopted by said Board at its meeting on August 3, 2017, as copied from the Minutes of said Meeting.


SECRETARY OF THE BOARD

DATED: Aug 3, 2017